



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN
~~JONAS H. MANN~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable R. E. Beasley
County Auditor
Collin County
McKinney, Texas

Dear Sir:

Opinion No. 0-3682
Re: The number of election
officials to hold the
special election, June
28, and the pay which
they are entitled to.

Your recent request for an opinion from this department has been received and considered. We quote from your request:

"The question has come up with reference to the number of election officials necessary to hold the election in different boxes in the county for the special election June 28th., and with reference to their pay.

"Article 2938, Revised Civil Statutes, provides for the number of judges and clerks to hold all elections with the following proviso at the end of this article of the statute, to-wit: 'Provided, that in all elections held under the provisions of this title, other than general elections, local option elections and primary elections, the officers to be appointed by the commissioners' court to hold said elections shall be a presiding judge and assistant judge and two clerks, whose compensation shall be \$2.00 per day and \$2.00 extra to the presiding judge for making the return of the election.'

"Would the commissioners' court of Collin County be justified in instructing the presiding judges that the above quoted portion of Article 2938 applies to this special election? Naturally, we are interested in this from two standpoints. First, we believe that where there is only one office being voted on it should not be necessary to have as many

judges and clerks as is usually provided for. Second, the \$2.00 compensation with the reduction in the amount of help will make a great deal of difference in the expense of holding the election."

This department in Opinion No. 0-3438 has held that the provision of Article 2938, quoted in your request, controls the number of election officials required in all precincts to conduct the forth-coming Senatorial election. A copy of Opinion No. 0-3438 is being enclosed for your information.

Article 2943 of Vernon's Civil Statutes is a statute regulating the compensation of judges and clerks of general and special elections. It is obvious that Article 2943 was passed subsequent to the enactment of Article 2938. Each statute prescribes the compensation to be paid the election officials authorized and required in a special Senatorial election. We think the two acts are clearly inconsistent and repugnant in so far as each attempts to fix the compensation of election officials in a special Senatorial election. Article 2943, being the latest expression of the Legislature on the same subject it should control and be given effect. 39 Tex. Jur. P. 139.

We are, therefore, of the opinion that the provisions of Article 2943, Vernon's Civil Statutes, are controlling with reference to the pay or compensation to be paid to the election officials holding and conducting the forth-coming special Senatorial election.

We trust that in this manner we have fully answered the questions presented in your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

HM:RS:mjs
ENCLOSURE
APPROVED JUN 18, 1941
/s/ GROVER SELLERS
FIRST ASSISTANT
ATTORNEY GENERAL

By /s/ Harold McCracken
Harold McCracken
Assistant

APPROVED OPINION COMMITTEE
BY BWB, CHAIRMAN